

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07
EA-07 FRB-03 INR-07 IO-13 NEA-10 NSAE-00 USIA-06
OPIC-03 SP-02 TRSE-00 LAB-04 EPG-02 SIL-01
AGRE-00 OMB-01 /085 W
-----028952 020600Z /23

R 011915Z JUL 77

FM AMEMBASSY PARIS

TO SECSTATE WASHDC 5094

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USOECD

PASS: EB FOR SMITH; TREASURY FOR GRIFFIN

E.O. 11652: N/A

TAGS: EINV, OECD

SUBJECT: JULY 7-8 MEETING OF OECD COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES (CIME): MAIN ISSUES

REF: (A) IME(77)12; (B) IME(77)13; (C) OECD PARIS 19048;
(D) IME(77)9; (E) IME(77)11; (F) IME(77)6

1. MISSION BELIEVES THAT FOLLOWING REPRESENT MAIN ISSUES OF INTEREST FROM U.S. POINT OF VIEW AT UPCOMING CIME MEETING AND SHOULD BE DOVUS OF WASHINGTON'S ATTENTION IN PREPARATION FOR MEETING.

2. ATTEMPTS BY SECRETARIAT TO "INTERPRET" GUIDELINES:
SECRETARIAT DOCUMENTATION FOR AGENDA ITEMS 4 (REF A)
AND 5 (REF B), ESPECIALLY THE FORMER, APPEAR TO CONTAIN ATTEMPTS BY THE SECRETARIAT TO MOVE BEYOND THE CIME MANDATE AND "INTERPRET" SECTIONS OF THE GUIDELINES, OR AT THE LEAST ESTABLISH A BODY OF DOCTRINE OR CASE LAW ON THEM.

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THIS PROBLEM WAS ADDRESSED IN REF C.

3. DEFINITION OF MULTINATIONAL ENTERPRISES (MNE'S):
SECRETARIAT NOTE ON DEFINITION OF MULTINATIONAL ENTERPRISES (REF D) WAS REQUESTED BY COMMITTEE AT FEBRUARY CIME MEETING. HOWEVER, TAKEN TOGETHER WITH SOME OF WORDING IN DOCUMENTATION FOR AGENDA ITEM 4 (REF A), IT

COULD BE USED IN EFFORT BY SECRETARIAT TO MOVE TOWARD DEFINITION OF MNE'S IN THE COMMITTEE. IT MIGHT BE APPROPRIATE AT MEETING FOR U.S. TO SEEK REAFFIRMATION OF ESTABLISHED COMMITTEE POSITION THAT PRECISE LEGAL DEFINITION OF MNE'S IS NOT REQUIRED FOR PURPOSES OF THE GUIDELINES.

4. NATIONAL TREATMENT: UNDER TERMS OF ITS MANDATE, THE COMMITTEE IS TO REVIEW PERIODICALLY APPLICATION OF NATIONAL TREATMENT. SECRETARIAT NOTE (REF E) ON AGENDA ITEM 3 ON NATIONAL TREATMENT LISTS VARIOUS OPTIONS FOR ESTABLISHING PROCEDURES FOR EXAMINATION OF EXCEPTIONS TO NATIONAL TREATMENT. U.S. MAY WISH TO URGE THAT MORE PROMINENCE BE GIVEN THE NATIONAL TREATMENT ISSUE, WHETHER THROUGH A CONCENTRATED COMMITTEE REVIEW AT SOME FUTURE MEETING OR THROUGH THE ESTABLISHMENT OF A WORKING GROUP OR SOME OTHER MEANS. GIVING IMPETUS TO MANDATE'S PROVISIONS ON NATIONAL TREATMENT IS USEFUL TO BRING BETTER BALANCE TO COMMITTEE'S DISCUSSION, WHICH HAS OF LATE TENDED TO CONCENTRATE ON MNE GUIDELINES. IN THIS CONNECTION, THE SECRETARIAT'S NOTE VENTURES TENTATIVE SUGGESTION THAT COMMITTEE MIGHT CONSIDER AN ARRANGEMENT WHEREBY BIAC WOULD COMMENT ON LISTS OF NATIONAL TREATMENT EXCEPTIONS SUBMITTED BY MEMBER COUNTIES. MISSION BELIEVES THAT IT WOULD BE USEFUL TO MORE CLOSELY INVOLVE BIAC IN CIME DELIBERATIONS, ESPECIALLY LIMITED OFFICIAL USE

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GIVEN TUAC'S ACTIVE ROLE, AND THAT SECRETARIAT SUGGESTION WOULD BE GOOD VEHICLE FOR DOING SO. HOWEVER, UNLESS UMS. TAKES LEAD IN ENCOURAGING COMMITTEE ACCEPTANCE OF BIAC ROLE IN COMMENTING ON NATIONAL TREATMENT EXCEPTIONS, THE MATTER WILL PROBABLY NOT GO FAR AT THIS MEETING.

5. FUTURE WORK PROGRAM: AGENDA ITEM 7 AND ITS DOCUMENTATION COULD BE OCCASION FOR GENERAL COMMENTS ON DIRECTION FUTURE WORK OF COMMITTEE SHOULD TAKE. MISSION HAS NO SPECIFIC KNOWLEDGE THAT ANY DELEGATION INTENDS TO ADDRESS SUBJECT IN DEPTH. UNLESS WASHINGTON HAS DEVELOPED FIRM IDEAS ON CIME WORK PROGRAM, IT WOULD SEEM IN ORDER TO ACCEPT SECRETARIAT'S PROPOSALS (REF F) ON FUTURE WORK TIMETABLE, IN GENERAL WAY, WITH CAVEAT THAT WORK PROGRAM SHOULD BE KEPT FLEXIBLE AND OPEN TO CHANGE IF FUTURE CIRCUMSTANCES SO REQUIRE.

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
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Decapton Date: 01-Jan-1960 12:00:00 am
Decapton Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977PARIS19342
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
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Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 OECD PARIS 19048
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 02-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1983413
Secure: OPEN
Status: NATIVE
Subject: JULY 7-8 MEETING OF OECD COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES (CIME): MAIN ISSUES
TAGS: EINV, OECD
To: STATE
Type: TE
vdkgwkey: odbc://SAS/SAS.dbo.SAS_Docs/5cf5f071-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009